Please refer to Planning Commission Rule #25: Any action taken during this meeting is subject to reconsideration during this meeting or at the next. A request for reconsideration at the next meeting must be submitted in writing by a Planning Commissioner (who voted on the prevailing side) by the close of business the day following the meeting.

Roll Call, Opening Statements, Agenda and *Consent Agenda.
Commissioners Present: John Perreault Charles Whitaker
              Eric Muehling Mike Kenna
              Mindy O’Neall Kerynn Fisher
Commissioners Absent & Excused: Chris Guinn Doug Sims
              Toni Abbey

APPROVAL OF THE AGENDA AND CONSENT AGENDA

*MINUTES

Audio: Track 1

AGENDA AND CONSENT AGENDA APPROVED

QUASI-JUDICIAL HEARINGS
1. CU2019-011: A request by Michelle Westlake for conditional use approval of a marijuana retail store in the General Use 1 (GU-1) zone on Lot 2, Block C, Endecott Subdivision (located at 2008 Levado Avenue, Unit A, on the north side of Levado Avenue, east of Badger Road).

Audio: Track 1, 2, 3

CONDITIONS OF APPROVAL
1. Prior to the commencement of retail marijuana store operation, the applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:

   a. As required by the FNSB and the Department of Commerce, Community, and Economic Development (Alcohol and Marijuana Control Office), the applicant or holder of this conditional use permit shall ensure the site meets all licensing requirements for a commercial retail marijuana store.
b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.

2. All parking, turning and maneuvering area shall be located entirely within the subject property of the conditional use being served.

3. If any modifications are made to the site plan, floor plans, or other FNSB required documents or operational characteristics, the applicant or holder of this conditional use permits shall submit revised documents to the FNSB Community Planning Department. If modifications are made to the conditional use, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

4. If the current vegetation/tree line from any adjoining property is removed, the owner of Badger Buds shall install a privacy fence within 90 days.

**FINDINGS OF FACT**

1. The proposed conditional use conforms to the intent and purpose of Title 18 and of other ordinances and state statutes because:
   
   a. FNSB Regional Comprehensive Plan Land Use Goal 1 and Goal 3 are supported by the conditional use by increasing the variety of land uses, especially cluster commercial development.
   
   b. The intent of Title 18 is met because the conditional use, with conditions, protects private property rights and promotes public health, safety, and welfare.
   
   c. Alaska Statute 3AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial retail marijuana store obtain a license pursuant to all state regulations. The applicant has provided information sufficient to show they intend to meet the state regulations and to apply for a state issued license.

2. There are adequate existing utilities serving the site and other public services are available to serve the proposed conditional use.
   
   a. There are adequate existing well and septic system in place.
   
   b. The subject property is served by the North Star Volunteer Fire Department for emergency fire response.
c. The subject property has adequate power supply because it is served by the GVEA grid.

d. The subject property is served by the Alaska State Troopers for law enforcement.

e. The subject property has access from Levado Avenue which is a Local type roadway that is not part of a road service area. Though Levado Avenue is unmaintained, it should be able to accommodate the proposed additional trips generated from the property, as the heaviest road uses are the result of the other industrial uses on Levado.

f. The subject property is accessible from Badger Road, which is a Major Arterial type roadway. Badger Road can accommodate the trip ends generated by the proposed retail store.

g. Four (4) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed conditional use.

3. The proposed conditional use protects public health, safety, and welfare because the property complies with Title 18 standards for the GU-1 zone (FNSBC 18.40) as well as Title 18 standards for marijuana establishments (FNSBC 18.96.240).

a. The applicant has proposed specific mitigation efforts to limit any negative impacts to the surrounding properties, including limiting the hours of operation and delivery hours to reasonable time slots, by having the outdoor lighting be motion activated rather than permanently on, and by not cultivating plants that could cause strong odors.

b. Site Security and waste disposal adhere to all requirements per Alaska Statute 3AAC 306.

c. Odor and noise are limited due to the operation being entirely indoors and no plant growth or cultivation on site.

d. Hours of operation are within Alaska State regulations.

**CU2019-011 APPROVED**

[SIX IN FAVOR/ZERO OPPOSED]

This decision may be appealed in writing to the Office of the Borough Clerk within fifteen (15) days from the date of the decision to the Fairbanks North Star Borough Board of Adjustment.
QUASI-JUDICIAL HEARINGS

1. **Appeal of SD021-19/RP030-19 Coincidence Subdivision:** An appeal of the FNSB Platting Board’s decision on May 15, 2019 to exclude from Coincidence Subdivision the vacation of the existing 300 foot building setback easement created by General Note 16 from the plat of Bear’s Den Subdivision. The Platting Board approved Coincidence Subdivision, a replat of Lot 8, Block 3, Bear’s Den Subdivision, a total of 15.19 acres, into two lots of approximately 5.00 acres and 10.19 acres, but did not approve the vacation of the 300 foot building setback easement because it is required to go through the process for vacation of a public ROW easement. The property is located within the NE¼ NW¼ Section 9, T3N, R1W, FM. *(Staff Contact: George Stefan)*

Audio: Track 3, 4

FINDINGS OF FACT

1. Plat No. 82-194, Bear’s Den Subdivision, states the “300’ building setback easement is dedicated.”

2. The 300 foot building setback easement created by Plat No. 82-194, Bear’s Den Subdivision, is considered a public easement.
   a. As codified in FNSBC 17.04.010, “dedication means the deliberate grant of land by an owner to the public for any general and public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.”
   b. The easement does not specify a dominant estate holder.
   c. The easement was granted generally by plat note.

3. FNSBC 17.32.010 requires that vacation of a public road, trail, easement, or public area must conform to the requirements of AS 29.

4. FNSBC 17.32.020 requires a vacation application to be submitted on a form provided for that purpose.

5. The Coincidence Subdivision request included the vacation of the 300 foot building setback easement, but the applicant did not submit a vacation application as required by FNSBC 17.32.020.

6. The Platting Board was correct in excluding the vacation of the 300 foot building setback easement from the Coincidence Subdivision approval on May 15, 2019.
RESOLUTION 2019-02 APPROVED (UPHOLDING PLATTING BOARD’S DECISION TO DENY THE VACATION OF SETBACK EASEMENT) [FIVE IN FAVOR/ONE OPPOSED]

This decision may be appealed in writing to the Office of the Borough Clerk within fifteen (15) days from the date of the decision to the Fairbanks North Star Borough Board of Adjustment.

New Business, Excuse Future Absences, Commissioners’ Comments and Adjournment.

Audio: Track 3, 4

Further information may be obtained from FNSB Department of Community Planning at 459-1260
RESOLUTION NO. 2019-02

A RESOLUTION UPHOLDING THE PLATTING BOARD DECISION OF MAY 15, 2019 TO EXCLUDE FROM COINCIDENCE SUBDIVISION THE VACATION OF THE EXISTING 300 FOOT BUILDING SETBACK EASEMENT CREATED BY GENERAL NOTE 16 FROM THE PLAT OF BEAR’S DEN SUBDIVISION

WHEREAS, on May 15, 2019, the Fairbanks North Star Borough (FNSB) Platting Board heard SD021-19 / RP030-19, Coincidence Subdivision, a subdivision request which included the vacation of the existing 300 foot building setback easement created by the parent plat, and voted 5-0 to approve Coincidence Subdivision, except for the vacation of the 300 foot building setback easement;

WHEREAS, on July 9, 2019, the FNSB Planning Commission heard an appeal from the FNSB Platting Board’s decision to exclude the vacation of the 300 foot building setback easement from the approval of Coincidence Subdivision;

WHEREAS, the FNSB Planning Commission is required to set forth its decision in the form of a resolution expressing specific findings of fact and reasons why the action was taken, including reference specifically to the record upon which any disputed questions of fact have been resolved and provisions of code or statute which support such findings;

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission sets forth the following specific findings of fact:

1. Plat No. 82-194, Bear’s Den Subdivision, states the “300’ building setback easement is dedicated.”

2. The 300 foot building setback easement created by Plat No. 82-194, Bear’s Den Subdivision, is considered a public easement.
a. As codified in FNSBC 17.04.010, "dedication means the deliberate grant of land by an owner to the public for any general and public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted."

b. The easement does not specify a dominant estate holder.

c. The easement was granted generally by plat note.

3. FNSBC 17.32.010 requires that vacation of a public road, trail, easement, or public area must conform to the requirements of AS 29.

4. FNSBC 17.32.020 requires a vacation application to be submitted on a form provided for that purpose.

5. The Coincidence Subdivision request included the vacation of the 300 foot building setback easement, but the applicant did not submit a vacation application as required by FNSBC 17.32.020.

6. The Platting Board was correct in excluding the vacation of the 300 foot building setback easement from the Coincidence Subdivision approval on May 15, 2019.

BE IT FURTHER RESOLVED that the Planning Commission upholds the Platting Board's determination of May 15, 2019 and hereby denies the Appellant's request to include approval of the vacation of the 300 foot building setback easement as part of Coincidence Subdivision.

PASSED AND APPROVED THIS 9TH DAY OF JULY, 2019.

Mindy O'Neill, Chair
FNSB Planning Commission

Effective Date: This Resolution shall be effective at 5:00 p.m. on the first Borough business day following its adoption.